

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 5, 2002

IN RE:

**APPROVAL OF THE AMENDMENT TO
THE INTERCONNECTION AGREEMENT
NEGOTIATED BY BELL SOUTH
TELECOMMUNICATIONS, INC. AND
DIECA COMMUNICATIONS, INC. D/B/A
COVAD COMMUNICATIONS COMPANY,
INC. PURSUANT TO SECTIONS 251 AND
252 OF THE TELECOMMUNICATIONS
ACT OF 1996**

DOCKET NO. 02-00585

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones, of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at a regularly scheduled Authority Conference held on July 23, 2002 to consider, pursuant to 47 U.S.C. § 252, the *Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and DIECA Communications, Inc. d/b/a Covad Communications Company, Inc. Pursuant to the Telecommunications Act of 1996* (the "Amendment").

On December 21, 2000, DIECA Communications, Inc. d/b/a Covad Communications Company, Inc. ("Covad") filed a *Petition for Interconnection by Covad Communications Company Against BellSouth Telecommunications Company*, under Docket No. 00-01130, requesting the Authority arbitrate certain unresolved issues between BellSouth Telecommunications, Inc. ("BellSouth") and Covad. At the February 6, 2001 Authority

Conference, the Directors voted to accept the petition, appoint themselves as arbitrators, and appoint General Counsel or his designee to act as the Pre-Arbitration Officer. Thereafter, the arbitration proceeded with the parties filing joint issues matrixes, engaging in discovery, and presenting pre-filed testimony. On February 12, 2002, BellSouth filed the petition requesting the Authority approve the Interconnection Agreement attached thereto. The cover letter to the petition explained that the Agreement was negotiated between the parties and resolved all remaining issues in the arbitration. The parties filed the Amendment to the Interconnection Agreement on May 20, 2002, which is the subject of this docket.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of

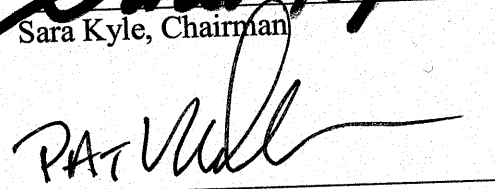
47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

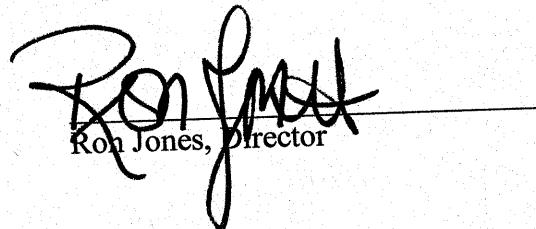
- 5) No person or entity has sought to intervene in this docket.
- 6) The Amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Amendment to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and DIECA Communications, Inc. d/b/a Covad Communications Company is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).